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Response to Office Action dated 07/29/2008
Reply to Office Action of 02/07/2008

REMARKS

In the above-identified Office Action, the Examiner objected to both the TITLE and the ABSTRACT of the invention as well as to Claims 8, 16 and 24. Claims 9 – 17 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 6, 14, 22 and 30 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claims 1 and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by Erten. Claims 2, 3, 5, 9, 10, 11, 13, 17 – 19, 21, 26, 27 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Obrador. Claims 4 and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Taylor et al. Claims 6 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Basu et al. Claims 7 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Graf. Claims 12 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Obrador and further in view of Taylor et al. Claims 14 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Obrador and further in view of Basu et al. Claims 15, 16, 23 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Erten in view of Obrador and further in view of Graf. Claims 1, 6 – 9, 14 – 17, 22 – 25 and 30 were rejected under the doctrine of "same invention" double patenting for being unpatentable of Claims 1 - 2, 3, 5, 8 – 10, 12, 15 – 17, 19, 22 – 24 and 26 of US document no. 2005/0131744 (application serial no. 10/732,780).

Examiner Fitzpatrick and Examiner Kumar are thanked for the telephone interview of March 26, 2008. In that interview, attorney Emile discussed amended Claim 1 and references Erten and Obrador. During the interview, attorney Emile agreed to qualify participants as being listeners as opposed to speakers and to perhaps expound on the analyzing element.

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In response to the objection to the TITLE, a new TITLE that is more clearly indicative of the invention to which the claims, as presently drafted, are directed is provided. Hence, Applicants kindly request withdrawal of the objection.

Further, Applicants have deleted the TITLE of the invention on the page containing the ABSTRACT to overcome the objection made to the ABSTRACT. Consequently, Applicants request withdrawal of this objection.

Applicants have canceled Claims 8, 16 and 24 from the Application. Therefore, the objection made thereto becomes moot.

Regarding the 101 rejection of Claims 9 – 16, the Examiner stated that the claims include phrases such as "computer program product on a computer readable medium," "computer program product," or "code" which do not fall into any statutory category. Applicants interpret this rejection as being directed to the lack of hardware in the claims and have consequently amended independent Claim 9 to re-direct the claim to a "computer program product on a computer readable storage medium having instructions which when executed by a processor use stored audio and video data recorded at a conference as a speech analysis tool, the instructions comprising instructions for."

Accordingly, the claims presently include hardware (i.e., any one of processors 202 or 204 of Fig. 2 or 302 of Fig. 3) that acts on software (the software represented by the flowchart in Fig. 9) to achieve the aim of the claim. Hence, Applicants submit that Claims 9 – 16 presently fall within statutory subject matter and kindly request the 101 rejection made thereto.

Applicants also amended Claims 6, 14, 22 and 30 to replace regional/cultural etc. with cultural. Applicants believe that the 112 rejection have also been overcome and kindly request its withdrawal.

Applicants further amended independent Claims 1, 9, 17 and 25 to overcome the 102 rejection. Specifically, Applicants have amended the claims to indicate that the participants are listeners to a speech and the facial expression that is to be searched for is a facial expression exhibited by the participants/listeners (see the paragraph on page 17, line 31 to page 18, line 13

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among others as support for the added limitations). Thus, no new matter is added to the Application.

Claims 2 – 7 and 10 – 15 were amended to better claim the invention.

Regarding the rejection of Claims 1, 6 – 9, 14 – 17, 22 – 25 and 30 under the doctrine of "same invention" double patenting for being unpatentable of Claims 1 - 3, 5, 8 – 10, 12, 15 – 17, 19, 22 – 24 and 26 in Application No. 10/732,780, Applicants submit that the subject matter of the claims in the instant Application is different than that of Application No. 10/732,780.

In MPEP 804, a reliable test for double patenting under 35 U.S.C. 101 is postulated as whether a claim in an application could be literally infringed without literally infringing a corresponding claim in a patent. To illustrate this point an example is given. In the example, an invention defined by a claim reciting a compound having a "halogen" substituent is said not to be identical to or substantively the same as a claim reciting the same compound except having a "chlorine" substituent in place of the halogen because "halogen" is broader than "chlorine."

Thus, if two claims are of different breadth, they are not the same under 35 USC §101.

Claim 1 in the present Application is of different breadth than Claim 1 in Application No. 10/732,780.

For example, Claim 1 in the present Application includes the limitations *analyzing the stored video data representing the at least one participant exhibiting the facial expression and stored audio data representing what was being said in the speech when the at least one participant exhibited the facial expression to improve a speaker's speech making ability* which are absent in Claim 1 of Application No. 10/732,780.

Further, Claim 1 of Application No. 10/732,780 includes **_AUs_** as limitations which absent in Claim 1 of the present Application.

Consequently, Applicants submit that Claim 1 in the instant Application contains different subject matter than Claim 1 in Application No. 10/732,780.

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Therefore, Applicants respectfully request withdrawal of the statutory-type double patenting rejection.

In addition, since the dependent claims in the instant Application include the limitations of their respective independent claims, Applicants submit that they too claim different inventions than dependent Claims in Application No. 10/732,780.

Thus, Applicants likewise request withdrawal of their statutory-type double patenting rejection.

By this amendment, therefore, Claims 1 – 7, 9 – 15, 17 – 24 and 25 – 30 remain pending in the Application. For the reasons stated more fully below, Applicants submit that the pending claims are allowable over the applied references. Hence, reconsideration, allowance and passage to issue are respectfully requested.

The invention is set forth in claims of varying scopes of which Claim 1 is illustrative.

1. A method of using stored audio and video data recorded at a conference as a speech analysis tool comprising:

indicating a facial expression for which to search from the stored video data, the facial expression being exhibited by one or more of the participants listening to a speech at the conference;

determining, using the stored video data in conjunction with an automated facial decoding system, whether at least one participant listening to the speech exhibited the indicated facial expression; and

analyzing, in response to determining that the at least one participant listening to the speech exhibited the facial expression, the speech by analyzing the stored video data representing the at least one participant exhibiting the facial expression and stored audio data representing what was being said in the speech when the at least one participant exhibited the facial expression to improve a speaker's speech making ability. (Emphasis added.)

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Applicants submit that the claims, as presently drafted, are patentable over the applied references.

Erten purports to teach an audio visual speech processing system. According to Erten, a speaker/speakers (user/users) may train the visual speech processing system to recognize words that the speaker/speakers may utter in the future. To do so, images of the speaker/speakers are captured uttering the words. Data representing the visual images and data representing the words are stored. When the system is to recognize a word uttered by a speaker, the system compares stored visual images and audio data of the speakers uttering similar sounding words to make a probability determination as to which word the speaker actually uttered.

Thus, the system of Erten combines audio signals that register the voice or voices of one or more speakers with video signals that register the faces of these speakers. This results in enhanced speech signals and improved recognition of spoken words.

By contrast, the present invention uses audio signals of a speaker at a conference with video signals of participants who are listening to the speaker and who exhibit a particular expression at the conference for speech analysis. Specifically, a particular expression of a participant during the speech at the conference is used in conjunction with what was being said at the time by a speaker for speech improvement.

Thus, Erten does not teach, show suggest *indicating a facial expression for which to search from the stored video data, the facial expression being exhibited by one or more of the participants listening to a speech at the conference; determining, using the stored video data in conjunction with an automated facial decoding system, whether at least one participant listening to the speech exhibited the indicated facial expression*; and *analyzing, in response to determining that the at least one participant listening to the speech exhibited the facial expression, the speech by analyzing the stored video data representing the at least one participant*

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exhibiting the facial expression and stored audio data representing what was being said in the speech when the at least one participant exhibited the facial expression to improve a speaker's speech making ability as claimed.

Obrador purports to teach video indexing based on viewers' behavior and emotion feedback. According to the teachings of Obrador, one or more viewers are monitored during a multimedia sequence playback to detect the viewers' behavior and emotion feedback. Specifically, viewers' behavior and emotion feedback are divided into a plurality of categories of behavior and emotion segments. The multimedia sequence is then indexed using the plurality of categories of behavior and emotion segments. As a result, the viewers or other users can selectively view the multimedia sequence using the plurality of categories of behavior and emotion segments as video indices.

However, just as in the case of Erten, Obrador does not teach, show or suggest *indicating a facial expression for which to search from the stored video data, the facial expression being exhibited by one or more of the participants listening to a speech at the conference; determining, using the stored video data in conjunction with an automated facial decoding system, whether at least one participant listening to the speech exhibited the indicated facial expression*; and *analyzing, in response to determining that the at least one participant listening to the speech exhibited the facial expression, the speech by analyzing the stored video data representing the at least one participant exhibiting the facial expression and stored audio data representing what was being said in the speech when the at least one participant exhibited the facial expression to improve a speaker's speech making ability* as claimed.

Since neither Erten nor Obrador teach the above-reproduced claim elements, combining their teachings together would not teach the elements. Hence, Applicants submit that Claim 1, along with its dependent claims, is allowable over the applied references. The other independent claims (i.e.,

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independent Claims 9, 17 and 25), which all include the above-emboldened/italicized limitations of Claim 1, as well as their dependent claims, are also allowable over the applied references. Consequently, Applicants once more respectfully request reconsideration, allowance and passage to issue of the claims in the Application.

Respectfully Submitted

By: _____

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